



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Fwd: Military Arms Acquisitions By CA Countys

2 messages

BOS Four <bosfour@edcgov.us>

Tue, May 24, 2022 at 3:06 PM

To: County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Please add this to Legistar for file #22-0758, as I told Mr. Harde that it was received by my office prior to the start of the meeting but I had not had a chance to forward to the Clerk of the Board yet.

Thank you,

Lori Parlin

El Dorado County District IV Supervisor

Phone: (530) 621-6513

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----- Forwarded message -----

From: **David Harde** <davidharde123@gmail.com>

Date: Tue, May 24, 2022 at 8:26 AM

Subject: Fwd: Military Arms Acquisitions By CA Countys

To: BOS Four <bosfour@edcgov.us>

Hi, Reconsider 22-0758 after reading this...

David

https://www.afsc.org/sites/default/files/2022_Equipped_for_wa_CA_web.pdf

County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Tue, May 24, 2022 at 4:42 PM

To: BOS Four <bosfour@edcgov.us>

Will do, thank you!

Office of the Clerk of the Board

El Dorado County

330 Fair Lane, Placerville, CA 95667

530-621-5390

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[Quoted text hidden]

APRIL 2022



American
Friends
Service
Committee

EQUIPPED FOR WAR

Exposing
militarized
policing in
California

Contents

DISCLAIMER

This report discusses state violence and harm, including graphic depictions of weaponry.

Reader discretion is advised.
We believe that action for justice is a useful de-toxifier.

Cover photo: A U.S. police officer armed with a M4 carbine rifle during a training exercise.
Photo: John Crosby/defenseimagery.mil.

The American Friends Service Committee (AFSC) promotes a world free of violence, inequality, and oppression.

Guided by the Quaker belief in the divine light within each person, we nurture the seeds of change and the respect for human life to fundamentally transform our societies and institutions. We work with people and partners worldwide, of all faiths and backgrounds, to meet urgent community needs, challenge injustice, and build peace.



Executive Summary	01
Introduction	05
Firsthand experiences of militarized policing	09
New laws, new opportunities	13
California police and sheriff acquisitions of military equipment	15
Sources of military equipment	15
What military equipment does law enforcement use?	16
Rationales for acquiring military equipment	19
Use policies	21
Defining if and when it is okay to use military equipment	21
Current equipment use policies	21
Compliance with the use policy requirement of ab 481	23
Transparency and military equipment	27
How did we research transparency? What did we learn?	28
Challenges to communities seeking answers	29
How is there such a lack of transparency?	31
Recommendations for transparency	31
Company interests in police militarization	33
Lexipol LLC	34
Lenco Industries Inc: makers of the BearCat armored vehicle	34
Genasys Inc / LRAD	35
Colt's Manufacturing Company / Česká Zbrojovka	36
United Tactical Systems / PepperBall Technologies	36
Defense Technology / Safariland	37
Combined Systems Inc / Combined Tactical Systems	38
Aardvark Tactical, Inc	38
LC Action Police Supply Ltd	39
Adamson Police Products	40
Conclusion	41
Opportunities to press for demilitarization	41
Recommendations	42
California Attorney General Rob Bonta	42
City Councils/County Supervisors	42
Community groups	43
Journalists	43
Scholars and researchers	43
Methodology	45
Appendix A: Questions to ask law enforcement agencies about equipment and use policies	46
Appendix B: Glossary	47
Appendix C: Public records requests	48
Credits and Endnotes	51

EXECUTIVE SUMMARY

Communities across California have a unique, first-in-our-nation opportunity to create expectations around use of militarized equipment.

A California law (AB 481) signed into law on September 30, 2021, requires police agencies that have militarized equipment to define policies governing its use, and to report on deployments. In this report, we present an analysis of acquisitions, deployments, and use policies for military equipment, and law enforcement agencies' transparency on these issues. Our starting point is the perspectives and testimonies of people impacted by militarization.

We believe that communities need detailed, non-technical information about militarized gear used by law enforcement in order to participate in decisions about police actions that affect them, how to achieve community safety, and how public resources should be spent. To learn about and analyze such detailed information, American Friends Service Committee (AFSC) submitted more than 300 formal requests for police records using the California Public Records Act. It is our hope that our findings will provide grounding and insight for community members, elected officials, and journalists who support transparency and demilitarization of policing.

Militarization of the police in the U.S. has a long history. Yet the acquisition and use of military-grade equipment by civilian law enforcement agencies neither reduces crime nor increases officer safety. Several studies conclude that police departments that acquire military-grade equipment are more likely to use violence, including fatal violence. In 2020, law enforcement across the country deployed military equipment to suppress, in some cases violently, protests that erupted in response to the police murder of George Floyd and other Black people. Amnesty International documented 125 incidents of police violence over a 10-day period of these protests, including the deployment of teargas, rubber bullets and armored vehicles.

SWAT teams frequently use a range of militarized equipment, and SWAT deployments also disproportionately impact Black and Latinx households. Moreover, SWAT deployments impacting Black people are much more likely to be used for search warrants, while deployments impacting white people are more likely to be in hostage, barricade or shooter incidents.



PHOTO: AFSC San Diego

Militarized equipment is frequently used in prisons and jails. The California Department of Corrections and Rehabilitation (CDCR) reported 1,112 uses of tear gas and 903 uses of impact rounds in a 23-month period—more than all 51 other agencies combined for which we obtained data. CDCR spent more than \$45 million on firearms, chemical agents, and munitions from 2015 to 2021, for a prison population of no more than 120,000.

More than 150 police and sheriff departments in California acquired military surplus assault rifles or tank-like vehicles through the Pentagon's 1033 program. But as use of the 1033 program has declined, police and sheriff departments acquire most militarized equipment through direct purchases and state and federal grants, especially the Department of Homeland Security's Urban Areas Security Initiative and State Homeland Security programs, which grant more than \$40 million each year to California law enforcement agencies, most of it focused on countering terrorism.

Use Policies

The use policies for military equipment required by AB 481 must describe authorized uses and purposes of the equipment. Our analysis of initial proposed policies found that this is an area of significant non-compliance. Many policies describe authorized *users*, rather than authorized *uses*. Los Angeles PD is one of the largest police departments in the country, yet it does not publish a policy manual or use policies. Provisions for ensuring compliance and enforcement of the policies also were weak in policies we examined. Ordinances approving the use of military equipment should include provisions for a private right of action in order to ensure the policies are truly implemented.

Transparency

We made Public Records Act (PRA) requests for deployments and use policy data to 151 police agencies that had acquired armored vehicles or firearms through the federal 1033 program, and for purchase and deployment data to 131 police agencies. Our research found that while over 80% of agencies eventually responded to the requests, only 10% responded to militarized equipment purchase and deployment PRA requests within the 10 day-period mandated by law. Our data raises serious questions about California law enforcement agencies' abilities to provide data to communities, including to elected officials. In many cases, we found that the submitted request was not directed to relevant personnel, the agency required reiterated follow-up communications, or the responses were not timely.

The California Department of Corrections and Rehabilitation (CDCR) reported 1,112 uses of tear gas and 903 uses of impact rounds in a 23-month period—more than all 51 other agencies combined for which we obtained data.

Companies

Our research sheds light on connections between law enforcement agencies and the companies that provide them with militarized weapons and equipment. We include profiles of such companies, including Lexipol, which sells policy manuals to police departments; manufacturers of the BearCat armored vehicle, firearms and less-lethal weapons; and regional distributors.

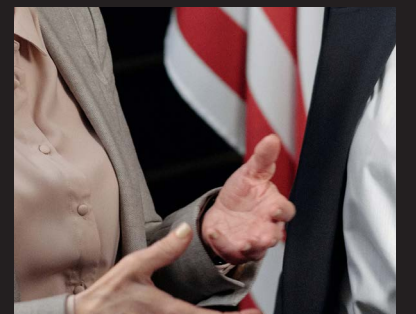
Conclusion

Militarized policing in the United States has been constructed over a long period of time, and has become embedded in the thinking, budgets, and institutional prerogatives of law enforcement officers and many civilians. It is built on narratives of fear and racism, as well as history and culture that embraces the practices of war. Deconstructing this militarization will require persistence from many individuals, organizations, and communities. We hope this report is useful in that endeavor.

Recommendations

We urge elected officials to ask hard questions about proposed use policies for military equipment submitted to them, to heed widespread community calls for demilitarization, and to reinvest resources used for militarized policing into community needs for mental health care, housing, drug treatment, health, employment, and reparations.

We urge California Attorney General Rob Bonta to publish guidance for cities and counties to implement AB 481 that states that use policies must clearly outline authorized and prohibited uses (not just users) for each type of military equipment.



To find full recommendations to elected officials, community members, journalists and scholars, **see p. 42**.

For data visualizations and an advocacy toolkit:

Visit

afsc.org/california-militarized-police



LEFT: Body cam footage of Margarito “Junior” López. ABOVE: Family photo of Margarito “Junior” Lopez



INTRODUCTION

As the sun begins to set in Los Angeles on December 18, 2021, 22-year-old Margarito “Junior” López is in a mental health crisis.

A family member calls police, hoping to prevent López’s suicide. His family, friends, and neighbors watch as he alternates between sitting in front of his home, pacing, and holding a cleaver to his own throat.

When police arrive, they immediately begin shouting at López to drop the knife, with no attempt at de-escalation. He ignores them. One officer fires a “less lethal” projectile at López. A few minutes later, the officer fires a “less lethal” projectile a second time. Two other officers immediately follow by shooting López four times. López’s loved ones watch as the police officers put the bleeding, fatally wounded young man in handcuffs. He died shortly afterward.¹

“Less lethal” launchers are part of a class of weapons known as “militarized equipment.” Many observers refer to “military” or “militarized” equipment. Law enforcement often bristles at this language, because not all equipment perceived by community members as “military” comes from the Department of Defense. Officers often see equipment from the inside, as “tools.” Yet, apart from the source of the equipment, communities’ experiences of police as warrior forces deploying militaristic weaponry and other gear is a key starting point for decisions about policing.²

Police sometimes source militarized equipment from the Department of Defense, though often it is purchased directly by cities and counties. While police agencies offer justifications based on critical emergencies such as active shooter incidents for the acquisition of these weapons, very few limit how these weapons may be used after acquisition and they are more often used to serve warrants, at protests, or even on patrol. The definition of a “critical incident” or emergency on which acquisition of the equipment was justified is often vague, expansive or non-existent. This has led to applications that lead to injury, trauma, long-term harm, and death of civilians in the communities where officers deploy these weapons.

Much military equipment is a “force multiplier”—it dramatically increases the effect of uses of force—and so it multiplies the impacts of racial disparities in uses of force. Policing in California and across the country focuses disproportionately on

Black and Brown communities. The Center for Policing Equity found that, taking into account the influence of neighborhood crime rates, poverty, and share of Black residents, Black people were subjected to force four times as often as white people by San Diego County Sheriff's Office (CSO), 4.4 times as often by the Sacramento Police Department, and 4.6 times as often by the San Diego Police Department.³

SWAT teams frequently use a range of militarized equipment, and SWAT deployments also disproportionately impact Black and Latinx households. An ACLU study of SWAT deployments by 16 law enforcement agencies found that Black people were between four and 47 times more likely to be impacted by SWAT deployments than whites. Moreover, these deployments impacting Black people were much more likely to be used for search warrants, while deployments impacting white people were more likely to be in hostage, barricade or shooter incidents.⁴

While police agencies are required by law to report on uses of force that result in physical injury, these reports rarely identify the use of militarized equipment such as assault rifles or armored vehicles, and they do not document impacts such as trauma or damage to community relationships. Most police agencies do not report when or how militarized equipment is deployed short of a use of force—some agencies do not even report this information internally.

Militarized equipment is frequently used in prisons and jails. Out of 46 California law enforcement agencies from which we obtained equipment deployment details or summaries for this report, the California Department of Corrections and Rehabilitation (CDCR) reported 1,112 uses of tear gas and 903 uses of impact rounds in a 23-month period—more than all other agencies combined for which we obtained data.⁵

Communities across California have a unique, first-in-our-nation opportunity to create expectations around use of militarized equipment. A California law (AB 481) signed into law on September 30, 2021, requires police agencies that have militarized equipment to propose policies governing its use, and to report on deployments. In this report, we present an analysis of equipment acquisitions, deployments, use policies for military equipment, and law enforcement agencies' transparency on these issues. We believe that communities need detailed, non-technical information about militarized gear used by law enforcement in order to participate in decisions about police actions that impact them, how to achieve community safety, and how public resources should be spent. To learn about and analyze such detailed information, we submitted more than 300 formal requests for police records using the California Public Records Act.⁶ It is our hope that our findings will provide grounding and insight for community members, elected officials, and journalists who support transparency and demilitarization of policing.

A California law (AB 481) signed into law on September 30, 2021, requires police agencies that have militarized equipment to propose policies governing its use, and to report on deployments.

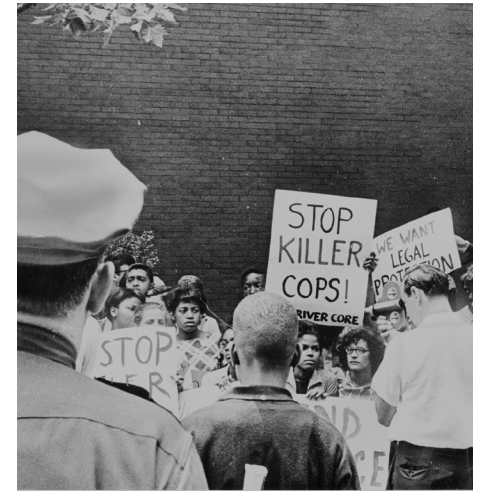
Militarization of the police in the U.S. has a long history. When drug prohibition started in the 1910s, Sheriffs in the south sought to increase firepower, claiming they needed higher caliber revolvers because supposedly Black people on cocaine were “unaffected” by lower caliber bullets.⁷ In the 1960s, President Johnson established the Law Enforcement Assistance Administration, which distributed millions of dollars of military equipment to local law enforcement in 1969–1970.⁸ In the 1980s, militarized policing grew as part of the so-called “war on drugs,” and expanded in the 1990s when Congress allowed the transfer of extra Department of Defense (DoD) equipment to state and local agencies through the 1997 National Defense Authorization Act, via the program now known as 1033.

The acquisition and use of military-grade equipment by civilian law enforcement agencies neither reduces crime nor increases officer safety.⁹ Several studies conclude that police departments that acquire military-grade equipment are more likely to use violence.¹⁰ One study found that as law enforcement acquires more military equipment, more local residents are likely to die in encounters with police and sheriffs.¹¹ Another political scientist, Jonathan Mummolo, drawing on five years of public records from every SWAT unit deployment in Maryland, found that local SWAT units neither reduced violent crime nor increased officer safety.¹²

A 2017 report analyzing data on police killings in four states reported a significant positive relationship between 1033 equipment transfers and fatalities from officer-involved shootings. Looking at both the number of civilians killed and increases in fatalities from one year to the next, researchers found that having more military equipment increases both the expected number of civilians killed by police and the change in civilian deaths.¹³

These measures resulted in a dramatic increase in use of military equipment for many purposes, not only for counter-drug activities, and they violate a foundational U.S. belief that police and military should be separate.¹⁴ This report shows that police militarization is also augmented today by significant direct purchases of military equipment by law enforcement agencies.

California communities have the opportunity to determine not only when militarized gear may be used, or who may use it, but under what circumstances a weapon should not be used or whether law enforcement should acquire and use the equipment at all. We offer tools to support communities in creating the use policies that would best support them, in the form of questions to ask as your city or county decides on proposed use policies for military equipment.¹⁵



Protestors demonstrating in Harlem in 1964 against the killing of 15-year-old James Powell by a police officer, as officers look on.
Photo: Library of Congress



Photo from Ferguson event, in response to the grand jury decision not to indict Darren Wilson in the shooting of Mike Brown. Photo: Joshua Saleem

FIRSTHAND EXPERIENCES OF MILITARIZED POLICING

During the Occupy protests in 2011, Oakland police used tear gas and rubber bullets to break up peaceful protests.

Scott Olsen, a Marine Corps veteran and community activist, was hit in the head by a police projectile, causing a fractured skull, broken vertebrae and brain swelling.¹⁶

In May and June 2020, law enforcement across the country deployed military equipment to suppress, in some cases violently, protests that erupted in response to the police murder of George Floyd and other Black people. Amnesty International documented 125 incidents of police violence over a 10-day period of these protests, including 15 uses in California of teargas, firing less lethal projectiles such as rubber bullets and “sponge rounds,” and other uses of force.¹⁷

These police uses of military equipment were highly visible to protest participants, on social media and in other media. Much less visible—but more common—are police uses of military equipment in SWAT operations. In Monterey County, the sheriff’s SWAT team surrounded the house of Rogelio “Roger” Serrato Jr. in a military-style operation in 2011. After deputies threw a “flash-bang” grenade through his window,



Police release tear gas while blocking the way to City Hall where the Occupy Oakland encampment was dismantled and protesters dispersed, in Oakland, California late October 25, 2011. PHOTO: UPI/Elijah Nouvelage



Photo taken Tuesday, Oct. 25, 2011 of Marine Corps veteran Scott Olsen bleeding from a head wound after being struck by a projectile during an Occupy Wall Street protest in Oakland, Calif. Photo: Jay Finneburgh/Indybay

Serrato died in a house fire. It was later determined that Serrato, 31, was not involved in what the SWAT team was investigating and was unarmed in the house. The county paid \$2.6 million to the family.¹⁸

Elena “Ebbie” Mondragon, age 16, was pregnant when Fremont PD officers shot and killed her with an AR-15 rifle while she sat in a moving car in 2017. She was not the intended target.¹⁹

In Los Angeles County, Michael Nida, 31, was unarmed when a Downey officer fatally shot him in the back with a three-round burst from an MP5 submachine gun, after he was mistaken for a suspect wanted in an armed robbery at an ATM.²⁰

“Less lethal” weapons, as the name suggests are not meant to cause death. But, in the case of “Junior” Lopez we described at the beginning of this report, the use of impact munitions led to escalation and the death of someone the police had been called to protect but treated as a threat to themselves. Officers responded to sound and motion from each other as if it were coming from Mr. Lopez. That is, the use of weapons designed to disorient “suspects” may also be confusing to the officers using it.

Militarized and so-called “less lethal” weaponry are sometimes cited by law enforcement as tools to contain or even de-escalate violence or the potential for violence.²¹ The Oakland Police Department proposed a use policy for armored vehicles that described them as “equipment that significantly increases the options available to de-escalate... critical safety incidents” [emphasis added].²² In 2020, then-Chief of Berkeley Police Andrew Greenwood defended the use of tear gas and “less lethal” launchers; when asked what alternatives to such weapons police have in the face of potential violence, he said, “Firearms. We can shoot people?” (He subsequently apologized.)²³

Experience shows that such equipment is often a path to escalating violence—in the conduct of officers and in the perception of community members—a problem that milder language and euphemisms do not change. On May 30, 2020, in La Mesa, California, Leslie Furcron, a grandmother, was standing more than 100 feet from officers when they shot her in the head with a “less lethal” weapon known as a “bean bag.” A single “less lethal” deployment led to Furcron’s hospitalization and loss of sight in one eye.²⁴

On March 11, 2018, 31-year-old Joshua Pawlik was asleep in an alleyway. The Oakland Police Department used a BearCat armored vehicle to maneuver closer to him. As Pawlik awoke, OPD officers armed with AR-15s used their BearCat as a shooting platform to fire on and kill him. Four officers were subsequently fired for the killing, and a federal judge ordered Oakland to create an armored vehicle policy.²⁵

In Emeryville, Yvette Henderson was shot in the back and killed by an Emeryville PD officer in 2015, within seven seconds of police arriving on the scene for an alleged charge of shoplifting. “She was shot with an AR-15, which is a military-style weapon, like you were going to Iraq, to war,” said her brother Jamison Robinson. “She shouldn’t have been shot, period, but she would have had a chance if it had been a handgun, she could try to survive that. With an AR-15, that’s like an automatic execution.”²⁶



Photo of Elena “Ebbie” Mondragon.



Photo of Yvette Henderson.

Brian Rios’s Story

“I was in the fifth grade. It was 3 o’clock in the morning and I heard a loud bang go off and I thought we were getting broken into because I heard loud banging on the door. They broke through the front door. So I was thinking we were getting robbed. I start hearing people—like dozens of people come into the house and I’m terrified. I’m thinking ‘Oh my God, ...something really bad is gonna happen.’

“And all I hear is the name of my mom’s boyfriend get called out. Saying that they have a warrant. And so, as soon as I heard that I’m like ‘is that the police, or what’s going on?’ And the door to our room was locked, so I just hear them break it, and 3-4 people come in with automatic weapons and turn on the lights and they’re pointing their guns at me and my brother.

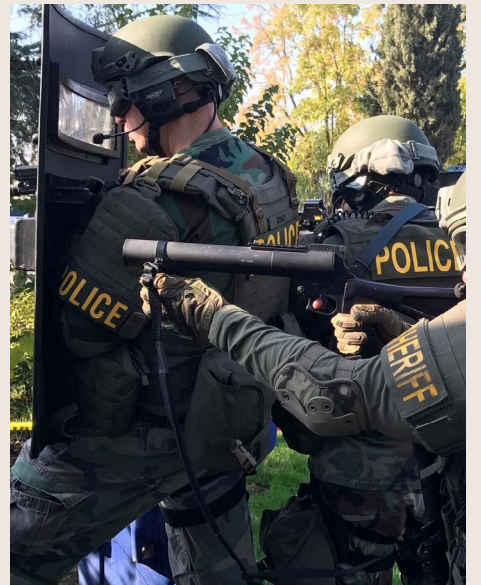
“They take us out of the house and it’s really cold. As soon as they take us out I see that the gate part that opens up is sitting on the side of the road, broken down with an armored truck.

“I couldn’t count how many officers there were, but they were all in like military gear—bullet proof vests, helmets. I’m like ‘what is going on? Why is this? Why are they dressed like this? Why is there an armored truck?’

“They just kept searching the house throughout the span of four more hours. And as soon as they were done, they just left. They left the house how it was. All the mess.

“I felt like we were violated, you know? Like even though they had a warrant, for us that wasn’t necessary. All the things they had, all the weapons that they used, it wasn’t necessary. And why do it at 4 in the morning when it’s one person?

“Militarization is just making [things] even worse, because it’s kind of like striking terror into the community. It’s treating the community as if it’s a war zone, you know? Like the people that they’re here to serve and protect are the ones that they’re trying to get.”



Officer holding 40mm launcher.
Photo: Madera County Sheriff’s Office



Lenco Bearcat APC (Armored Personnel Carrier) is a 2008 model year armored truck that belongs to the Oakland Police Department.
 Photo: localwiki.org/oakland/Bearcat_APC

Different types of military equipment—armored vehicles, assault rifles, ‘less lethal’ munitions—are often deployed as a single package, especially by SWAT teams. The community impacts of these deployments are magnified when police are working with unreliable information.

The Oakland Police Department owns two armored vehicles—a BearCat and an armored SUV, which were deployed over 100 times a year in 2018-2019.²⁷ In the early morning of October 4, 2018, OPD officers deployed the Bearcat and armored Suburban for the arrest of four suspects, none accused of homicide, two of whom had armed robbery in their criminal history, one another violent felony, and one for drug or weapon possession. An Operations Plan risk assessment, which was based on surveillance, stated the four were not gang members. The operation at two different residences did not find any of the four suspects. Although the risk assessment assigned 76%-100% reliability to the intelligence used, the information was clearly poor, an after-action report observed.²⁸

At the first residence, after officers used flashbang grenades in front of the residence, no one came out at first. Then, the officers shot less lethal projectiles and teargas canisters that broke and penetrated five windows, and a 60-year-old African American man in a wheelchair emerged through the front door. He said he thought he was being attacked by gun fire and had tried to call 911.

NEW LAWS, NEW OPPORTUNITIES

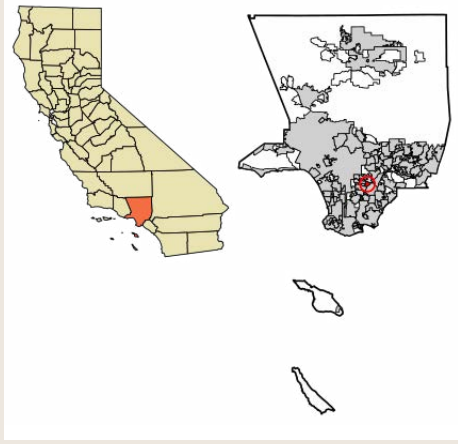
Three laws enacted in 2020 and 2021 offer Californians greater transparency for policing and regulate law enforcement’s use of military equipment and weapons: AB 481 on military equipment, AB 48 on tear gas and impact rounds during protests, and SB 978 on policy transparency. These three laws have important provisions that interact with each other.

SB 978 went into effect in 2020, requiring law enforcement agencies to post their policies prominently.³⁰ Many agencies did not comply, however, and it remains difficult to locate law enforcement policies.³¹ AB 48, signed into law in September 2021, prohibits the use of chemical agents and “kinetic energy projectiles” (rubber bullets, beanbag rounds, baton rounds) during gatherings protected by the First Amendment except in well-defined circumstances.³²

AB 481 was signed into law on September 30, 2021 by California Governor Gavin Newsom.³³ It requires all police and sheriff departments in the state to publish information about a range of militarized gear currently used in policing and in carceral facilities, and to obtain approval from elected officials of policies regulating the use of this military equipment.

For military equipment that law enforcement agencies acquired before 2022, the agency must submit a use policy to its respective “governing body” by May 1, 2022. For city police departments, these are city councils; for sheriff departments, these are county boards of supervisors.

City councils and county supervisors must decide in public meetings, open to community comment, whether to adopt police and sheriff proposed policies for the use of: tank-like armored vehicles, assault rifles, teargas, ‘less lethal’ launchers and munitions, drones, sound cannons and other gear often used in SWAT operations and crowd control. Approval of these policies must be in an ordinance. If a proposed use



Location of Bell Gardens in Los Angeles County, California. Photo: Wikicommons

Pablo Elias’s story

On the evening of March 11, 2020, Pablo Elias was at home with his family in Bell Gardens and experiencing a mental health crisis, and a call was made for help.

Bell Gardens police officers came and removed family members from the house. With Pablo locked in his room, officers tried to persuade him to come out. Pablo had not threatened or harmed anyone or committed a serious crime. He did not have a gun, there wasn’t a gun in the house, and police had no specific information that Pablo had a gun.

Nevertheless, officers left the house after midnight and deployed first flashbang devices, then teargas into the house. They also shot “less lethal” impact rounds at Pablo, striking him, and deployed an attack dog against him. Finally, when Pablo emerged from the house, officers shot him, in the presence of Pablo’s mother Consuelo and son Pablo. Officers also failed to call for medical help as Pablo lay bleeding before he died, according to the legal complaint filed by his family.²⁹

policy for any type of equipment is not adopted within 180 days of submitting it to the city council or county supervisors, AB 481 prohibits the purchase and use of that type of military equipment until the governing body adopts a policy.

The law applies to military equipment acquired from any source –purchase, the Pentagon’s 1033 program, or through grants. For new acquisitions of military equipment, agencies must submit a use policy before starting to use it. It also applies to gear used by outside law enforcement agencies in joint operations within a jurisdiction, such as “mutual aid” deployments or joint task forces. Police departments of transit agencies, universities, and park districts that use military equipment must also follow this process.³⁴ Cities that contract sheriff services have authority to establish policies for equipment used in their jurisdiction. State law enforcement agencies, such as CDCR and California Highway Patrol, must publish use policies for military equipment they propose to use and hold a public hearing.

For military equipment with an approved use policy, beginning in 2023, agencies must publish annual public reports on uses and acquisitions of militarized equipment, hold community meetings about the equipment, and elected officials must consider the report in a public meeting.

AB 481 requires use policies to describe oversight responsibilities and complaint procedures for violations of use policies. If law enforcement agencies violate approved use policies, the governing body may revoke approval of the equipment, or individuals with standing may file suit for the violations. If a law enforcement agency has not submitted use policies for military equipment by May 1, 2022 and it continues to use the equipment, individuals may sue for an injunction against use until a use policy is lawfully approved.



SB 978

effective January 1, 2020

Requires law enforcement agencies to make available online in a “conspicuous” manner all internal documents that would be considered “current standards, policies, practices, operating procedures, and education and training materials” and that would otherwise be available to the public if requested through the California Public Records Act (PRA).



AB 48

effective October 1, 2021

Prohibits the use by law enforcement of chemical agents or impact projectiles for crowd control, except to defend against a threat to life or serious bodily injury or to bring an objectively dangerous situation safely under control, and would prohibit their use solely due to noncompliance with an officer’s directive, violation of a curfew, or a verbal threat.



AB 481

effective January 1, 2022

Requires each police and sheriff department to submit to its city council or county supervisors a written military equipment use policy by May 1, 2022 for equipment acquired previous to 2022.

The governing body must approve the military equipment policy by ordinance in a public forum within 180 days of receiving the proposed policy in order for the law enforcement agency to continue using the equipment.

CALIFORNIA POLICE AND SHERIFF ACQUISITIONS OF MILITARY EQUIPMENT

Sources of military equipment

Most discussion and study of the military equipment used by police focuses on the 1033 program operated by the Pentagon.

Named for a section of the federal military spending bill—through the 1033 program—the Department of Defense offers a range of surplus military equipment, from car engines to tank-like vehicles, to law enforcement agencies for the cost of transporting it. Since 1990, the Pentagon has distributed more than \$7.4 billion worth of military gear through the 1033 program.³⁵ The amount of weaponry distributed through 1033 accelerated in 2011-2012 as a result of the United States’ drawdowns in Iraq and Afghanistan. “There is a need to dispose of material,” a Pentagon official said in 2012. “We have to free up this warehouse space.”³⁶

More than 150 police and sheriff departments in California acquired military surplus assault rifles or tank-like Mine Resistant Ambush Protected (MRAPs) vehicles through the 1033 program. Forty-eight California police and sheriff departments have obtained MRAPs (five departments have two of them), and California law enforcement agencies had 3,596 Pentagon-issued assault rifles at the end of 2021.³⁷

However, the number of military weapons distributed under the program has declined in recent years. In California, more than a dozen law enforcement agencies withdrew from the program between 2020 and 2021, returning assault rifles and other gear to the Department of Defense. In their responses to our records requests, these and other agencies said that they did not use 1033 rifles and other equipment, that they were in storage, used only in training, or non-functional. “I have never seen anything but broken junk equipment come out of the 1033 program,” said Ferndale Police Chief Ron Sligh. “In my opinion, it’s cost law enforcement time and money and very little benefit to what we have received.”³⁸ Only two military-issue assault rifles were transferred to California police or sheriffs from 2016 through 2021.³⁹

This does not, however, mean that police have demilitarized. Instead, police and sheriff departments continue to acquire most militarized equipment through direct purchases and state and federal grants. Police and sheriff budgets in California have grown in recent years, and continued to increase even after some cities committed to “reimagine public safety” and re-invest police funding for police into community safety programs.⁴⁰ Funds for purchases of military equipment come from city and county budgets, and usually are not identified in the budget information reviewed by elected officials.

Grants for militarized equipment include the Department of Homeland Security’s Urban Areas Security Initiative (UASI), State Homeland Security (SHSP), and Operation Stonegarden programs, as well as grants to law enforcement through California’s Citizens Options for Public Safety (COPS).⁴¹ UASI and SHSP grant more than \$40 million each year to California law enforcement agencies, most of it focused on countering terrorism, including equipment, training, and staff support.⁴²

Law enforcement agencies also purchase surplus military equipment through the Pentagon’s 1122 program: California police and sheriff departments have obtained at least \$9 million worth of equipment through the program, including armored vehicles acquired by six agencies since 2016.⁴³ Law enforcement agencies also purchase military equipment using asset forfeiture funds, often obtained through drug enforcement operations.

What military equipment does law enforcement use?

The militarized gear that California police and sheriffs obtain include: armored vehicles, assault and sniper rifles, launchers and munitions, Long Range Acoustic Devices, breaching equipment used to break doors, and drones. Assault rifles for civilian purchase and use are banned in the state, yet nearly every law enforcement agency has them.⁴⁴

BearCat

A “BearCat” is an armored vehicle with a tank-like appearance, often used during SWAT raids. It can be equipped with external loudspeakers, which ostensibly allows opportunity for police to move and communicate freely.

LRAD

A Long Range Acoustic Device (LRAD) is a targeted loudspeaker, and may appear to be an innocuous tool: it grants law enforcement the ability to clearly and effectively communicate with crowds, creating opportunities for direction or even de-escalation. It can also be used to broadcast at a distance, such as for evacuations.



“Less lethal” munitions.
Photo: Techjess/Wikicommons



BEARCAT
Los Angeles Police Department S.W.A.T. ‘Rescue 1’ B.E.A.R showing a battering ram attachment.
Photo: Steve Devol/Wikicommons



LRAD
An LRAD on top of a New York City police Hummer Photo: Wikicommons

Yet, instead of limiting LRAD deployment to the intended use, police also have used it as a sonic weapon that has the ability to “inflict severe, debilitating, permanent harm in the form of irreversible hearing loss, tinnitus, vestibular dysfunction, and barotrauma.”⁴⁵ Several doctor-led organizations have called for banning its use for crowd control, including the Academy of Doctors of Audiology and the 1997 Nobel Prize recipient Physicians for Human Rights.⁴⁶

“Less lethal” weapons commonly refer to chemical agents and to launchers of projectiles and their munitions. “Less lethal” munitions include impact rounds, commonly known as “beanbags,” “40 mm,” “sponge,” or “baton” rounds, as well as munitions that release chemical agents, such as “PepperBalls.” “Pepper spray,” often referred to as “OC” (for oleoresin capsicum) can be shot from a launcher, but more commonly is used as handheld spray (which is excluded from AB 481, unlike other “less lethal” weapons).⁴⁷

The total tax dollars spent on law enforcement militarized equipment is undisclosed. Based on responses to Public Records Act (PRA) requests, our database logs purchase records for armored vehicles, rifles, “less lethal” launchers, and LRADs since 2015 and munitions since 2018. The logged records represent 43 out of 331 California city police departments, just under a quarter of sworn police officers in the state. On the other hand, we logged purchase records for 37 out of 58 sheriff departments, representing nearly half of sworn sheriff officers in the state.


Still, our database only reflects a fraction of military equipment acquired by law enforcement agencies in California. This is because we did not request records for purchases before 2016; we did not request records for some types of equipment; some agencies did not respond or we were not able to enter all of the records provided; and we obtained information about only some military equipment acquired through Homeland Security and other grants.

For example, San Diego PD owns two BearCat armored vehicles, 477 assault rifles, 105 submachine guns, 75 PepperBall launchers, 149 40mm launchers, and two LRADs, according to the military equipment document it released in January 2022 to comply with AB 481.⁴⁸ Yet our request to San Diego PD for records of purchases since 2016 of these types of weapons yielded purchase records for none of this weaponry—only for munitions, accessories and training kits.


Some of the largest departments are not included in the purchase data, including the state prison agency, California Department of Corrections and Rehabilitation (CDCR), and California Highway Patrol. San Francisco PD is not included because they did not respond to the request, CDCR and Los Angeles PD are not included because the data supplied did not adequately describe weapons or munitions purchased, and, in the case of San Jose PD and California Highway Patrol, we were not able to enter data from a large volume of invoices.

CDCR merits special attention, because for a prison population of 100,000 to 120,000, it spent so much money on firearms, chemical agents, and munitions—more than \$45 million from July 2015 to the end of 2021.⁴⁹


Of the 83 city and county agencies for which we recorded purchase records for assault rifles, “less lethal” launchers and munitions, LRADs, and armored vehicles, the following tables indicate which of these agencies spent the most on equipment.




Top local agencies by total rifle cost, 2015-2021		Total Cost
Fresno Police Department		\$477,579
San Diego County Sheriff's Office		\$473,608
Ventura County Sheriff's Office		\$271,764
Kern County Sheriff's Office		\$248,724
Fairfield Police Department		\$183,684




Top local agencies by total launcher cost, 2015-2021		Total Cost
San Mateo County Sheriff's Office		\$137,734
Santa Clara County Sheriff's Department		\$110,643
Escondido Police Department		\$58,623
Santa Ana Police Department		\$54,975
Fairfield Police Department		\$47,877




Top local agencies by total munition cost, 2018-2021		Total Cost
Orange County Sheriff's Office		\$451,500
San Bernardino Police Department		\$351,114
Humboldt County Sheriff's Department		\$167,103
Oxnard Police Department		\$102,106
Santa Clara County Sheriff's Department		\$93,699



Top local agencies by total rifle cost per officer, 2015-2021		Total cost per officer
Fairfield Police Department		\$1,543
Amador County Sheriff's Office		\$1,134
Vallejo Police Department		\$1,118
South Gate Police Department		\$1,116
Salinas Police Department		\$800



Top local agencies by total launcher cost per officer, 2015-2021		Total cost per officer
Alpine County Sheriff's Office		\$1,399
East Bay Regional Park Police		\$483
Fairfield Police Department		\$402
San Mateo County Sheriff's Office		\$395
Escondido Police Department		\$378



Top local agencies by total cost per officer, 2015-2021		Total cost per officer
Amador County Sheriff's Office		\$30,176
Calaveras County Sheriff's Office		\$7,747
Ontario Police Department		\$6,191
Merced County Sheriff's Office		\$3,401
Alpine County Sheriff's Office		\$3,362

Rationales for acquiring military equipment

The practice of equipping police with assault weapons surged after a 1997 bank heist in Los Angeles, in which the robbers used both assault rifles and full body armor to wage a 30-minute battle with police. Ultimately, a SWAT team arrived and killed the robbers.⁵⁰ The event is still often cited by police officers as a reason for having high-powered weapons.

The use of this event to argue for military weaponry for law enforcement is instructive. It is all about planning for worst-case scenarios (to be clear, we are talking about the worst case for police, not for the public). According to that logic, every police department should plan for—and arm themselves completely for—a September 11 scenario.

Most Homeland Security grants for armored vehicles and other gear require an anti-terrorist rationale, leading to mission creep for police where terrorist threats are nearly nonexistent. Police departments have increasingly used climate change as a rationale for obtaining militarized equipment left over from foreign wars.⁵¹

The pervasiveness of military grade weapons in the hands of police, acquisition based on unrealistic contingencies, and the inherent rarity of worse case scenarios, means these weapons are overwhelmingly deployed in ordinary policing and patrols.



PHOTO: Sora Shimazaki/Pexels

USE POLICIES

Defining if and when it is okay to use military equipment

AB 481 requires each law enforcement agency to post proposed military equipment use policies by May 1, 2022. “Military equipment use policy” means a publicly released, written document describing military equipment in detail and the rules governing its use. Prominent posting of law enforcement policies is also required by SB 978.

A use policy should clearly state the purpose and authorized uses of equipment. Besides the uses authorized for the equipment, policies also need to specifically outline prohibited uses in order to set clear parameters. During a SWAT raid, should it be permitted for a flashbang grenade to be deployed indoors? If children may be present, is tear gas permissible? Under what circumstances is it permissible for police to use a LRAD that could inflict permanent hearing loss on community members?

In addition to this, policies should detail the process for documenting uses, as well as accountability measures to ensure that officers adhere to policy. “Use” of military equipment is not the same as “use of force,” and the policies for each should not be confused.

Decisions about policies for using military equipment must be accountable to the communities impacted by them, not outsourced to a private company (such as Lexipol) or buried deep in elected bodies’ consent agendas.⁵²

Current equipment use policies

We reviewed the existing use policies for assault rifles and armored vehicles of 154 California law enforcement agencies, including police departments, sheriff’s departments, and District Attorney offices.⁵³ Of these, eight agencies in small jurisdictions published no use policies at all.

Of the 146 agencies in our use policies database, 125 (85%) used Lexipol, the private company that sells templates for policies to most California law enforcement agencies (see Lexipol company profile on p. 34). In general, police departments from small jurisdictions use Lexipol templates more than police departments in medium-size and large cities. Many existing policies conflate purpose, the reasons for using equip-

ment, such as “To reduce violence in critical incidents,” with authorized uses of equipment. Lexipol’s template for assault rifle policies, used with little variation by most agencies, focuses attention on firearm models, training, rifle storage and maintenance, and officers authorized to use the rifles. It also includes a section on deployment that says: “Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed.” It lists “general guidelines” for deploying patrol rifles, ranging from situations where the officer “reasonably anticipates an armed encounter” to any time “authorized or requested by a supervisor.” But the guidelines “include but are not limited to” these situations. As a result, the Lexipol policy doesn’t define when to deploy assault rifles, instead leaving it up to officers.

Just 29 of the 154 agencies in our database had armored vehicle policies. Of 46 agencies that acquired MRAP tank-like vehicles through the 1033 program, only 11—less than a quarter—had armored vehicle policies. Several of these policies were brief and vague about what situations use is authorized for, such as for “rapid response deployments” (West Covina PD) or “to maintain social order and ensure the protection of private property” and “educate the community about the vehicle’s use” (Redlands PD) and silent about prohibited uses. On the other hand, Oakland’s armored vehicle policy, developed in response to community advocacy and a federal court mandate, while not meeting community calls to dispose of its BearCat, clearly outlines authorized uses and prohibited uses—including for crowd control, public relations, and routine patrol.⁵⁴

Los Angeles PD is one of the largest police departments in the country, and with nearly ten thousand sworn officers is by far the largest department in the state. Yet LAPD does not publish a policy manual or use policies for patrol rifles, armored vehicles, or other militarized equipment it uses. In fact, even its use of force policy is not visible on its public site. In response to our request for use policies for Pentagon-issued rifles and MRAP vehicles, LAPD pointed us to a link to a department search page, which does not yield results from searches for keywords such as “rifle,” “armored” or “policy manual.”

These findings underline the importance of AB 481’s mandate for use policies, since agencies across the state have acquired and used military equipment with no policy, much less a policy reflecting community desires, to determine when it is acceptable to use, and when it is not acceptable.

Lexipol has created a template for police and sheriff departments to meet their AB 481 obligations. The Lexipol template combines all guidance on authorized use, purpose, procedures, training for all types of military equipment into one, greatly reducing policy for the use of weapons such as ‘less lethal’ munitions, assault rifles, and armored vehicles. Many departments already have extensive policies for “less lethal” equipment, but if the military equipment policy does not reference them, policies could become even more vague and less instructive.

Los Angeles PD is one of the largest police departments in the country.. Yet LAPD does not publish a policy manual or use policies for patrol rifles, armored vehicles, or other militarized equipment it uses.

Compliance with the use policy requirement of AB 481

AB 481 requires law enforcement agencies to obtain approval of use policies for the acquisition of new equipment and for equipment acquired before 2022. The law defines a use policy as “a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency.”

A use policy includes seven points for each type of equipment:

1. **product information and quantity**
2. **purposes and authorized uses**
3. **fiscal impacts**
4. **rules governing use**
5. **training required to ensure protection of safety and civil rights**
6. **policy compliance mechanisms and oversight authority**
7. **procedures for registering complaints or concerns.**⁵⁵

In addition, AB 481 requires police and sheriff departments to publish annual reports on the use of each type of approved military equipment, the purposes of use, followed by a community meeting. Use policies should define procedures for documenting use of equipment so that the department will be able to compile a meaningful annual report. A few departments include procedures to document use of equipment, but most do not.

Because AB 481 requires adoption of use policies for other law enforcement jurisdictions operating in a jurisdiction, including county sheriffs or California Highway Patrol, use policies should also state that these policies apply to all visiting law enforcement agencies. Lexipol’s AB 481 policy template, however, says that “the assisting agency will be expected to adhere to their respective policies.”⁵⁶ This is likely to expose communities with policies that restrict the use of military equipment to deployments by more militarized law enforcement agencies.

We analyzed use policies created specifically to comply with AB 481 from six of the first jurisdictions to publish policies in early 2022.⁵⁷ Of those six, three clearly used a Lexipol template. Marina PD’s policy consisted of a Lexipol template, with little information added pertaining to the specific jurisdiction. Two other jurisdictions appeared to be using a different common template, but there was no attribution for that template. Most of the policies quote AB 481 extensively, often in place of supplying information about the jurisdiction’s actual policy or practice.

Here is how these policies complied with the seven provisions of the law pertaining to the content of use policies.

The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.

This is a significant area of non-compliance. The policies examined tended to address this in one of three ways. Some responded with authorized users, rather than authorized uses, e.g. “armored vehicles shall only be used by officers trained in their deployment.” Another approach, similar to Lexipol’s patrol rifle policies, was to give some examples of authorized uses, with the statement “uses could include” or “but not limited to.” This approach leaves open practically any use. San Diego PD took this approach in its policy, but also listed a few prohibited uses. This was the most restrictive policy we reviewed. But full compliance with this requirement would give a list of all acceptable uses, and should also list prohibited uses (e.g. when children are present).

Description and fiscal impacts of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.

Most jurisdictions we reviewed complied with these provisions by including inventories, product descriptions, capabilities, lifespan, and fiscal costs (including maintenance), of each type of military equipment they own. Inventories appeared to be comprehensive, although outsiders have no way of verifying this. No policy included the personnel costs of training with the equipment, which is likely to be more than any other cost.

Legal and procedural rules governing authorized use.

Some of the policies complied with this provision by quoting regulations pertaining to the use of each item. Some made reference to the chain of command and who in the department could authorize its use. Some jurisdictions did not address this question.

This section should incorporate provisions from AB 48, enacted in 2021, that prohibits use of tear gas and rubber bullets during most first amendment gatherings such as protests. Although several departments presented policies for tear gas, none of the initial policies we reviewed incorporated the new state restrictions.

“The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency’s decision to fund, acquire, or use such equipment.”

—AB481

Training.

All of the policies examined were vague regarding required training to deploy military equipment. Most, including the Lexipol policies, merely stated that only officers who have been properly trained may use the equipment. One jurisdiction referenced its department training manual.

Provisions for ensuring compliance with use policies were weak.

Lexipol policies only quoted the law saying that the department must obtain approval from the governing body for this use policy, but none of those policies indicated who the governing body is. Some of the non-Lexipol policies specified the governing body, generally the City Council. Some described an auditing process, but these were all proposed to be conducted by internal police units. None of the policies indicated an independent agency that can investigate non-compliance, nor did any specify sanctions for violations. Use policies should ensure implementation of the law and use policies by incorporating provisions for a private right of action in response to violations.

Complaint procedure.

The Lexipol agencies’ policies only cited the law’s requirement for the agency to hold a community engagement meeting within 30 days of issuing any annual report. Other agencies’ policies referred to the department’s complaint procedure and specified an internal unit that would respond to the complaint, such as Internal Affairs.

Other use policy issues: “Exigent circumstances.”

Police often appeal for the acquisition of military equipment for use in extreme circumstances or critical incidents, when danger is especially acute, not in ordinary policing. Use policies are meant to describe these circumstances. There is thus no reason to include a policy provision for officers to use military equipment in “exigent circumstances” as determined by the police chief. Such provisions remove any meaning from definitions of authorized use. Brisbane PD, which uses Lexipol, proposed that the Department may acquire, use or borrow military equipment without a policy in exigent circumstances—which are not defined—if the Chief of Police or his/her designee” so approves.⁵⁸ AB 481 has no provision for using military equipment in exigent circumstances.

Enforcement of policies.

Ordinances approving the use of military equipment should include provisions for a private right of action in order to ensure the policies are truly implemented.

Student protesters in Oakland, California, shortly before police launched tear gas and rubber bullets at them, June 1, 2020.
PHOTO: SASKIA HATVANY



TRANSPARENCY AND MILITARY EQUIPMENT

Transparency of information is crucial to give communities insight into, and the ability to engage decisions about, what their local agencies are acquiring, what governs its use, how much it costs, how and when it's used, and what impacts result.

Transparency can also occur through institutional processes such as budgeting and evaluation of policy. Ideally it enables a flow of information that is accessible to the public, reliable, understandable, timely, truthful, current, and verifiable. It is essential to accountability, creating a safeguard to protect against improper use, and record-keeping for investigations to reference.

Yet, as The Washington Post observed, “Local public safety budgets and reports rarely, if at all, mention how police departments and sheriff’s offices obtain such equipment. That makes it very difficult for policymakers and taxpayers to hold informed and open debates about whether and what military-style equipment should be used for local public safety.”⁵⁹

The public also has a right to know the policies for using military equipment. Yet these policies are often unpublished, difficult to find, or even classified as secret. The San Diego PD, for example, has a policy for use of its BearCat armored vehicle and other SWAT weaponry, but the entire public version is redacted.⁶⁰

Community and public officials in California have been in the dark about what military equipment law enforcement agencies operating in their jurisdictions have. There is a history of both secrecy and absence of information. Agencies often do not distinguish military from other supplies—in their purchasing, budgets, or incident reports—so police aren’t conditioned to recognize their own militarization. AB481 and SB978 set public expectations for accountability and communication regarding militarized equipment and policies specifically, and will grant communities and elected officials transparency into police agency acquisition and deployment of militarized equipment. The limits on using the Public Records Act to create transparency of military equipment in policing makes it imperative that city councils, county supervisors, and community advocates fully use the transparency provisions in these new laws.

How did we research transparency? What did we learn?⁶²

We made Public Records Act (PRA) requests for deployments and use policy data to 151 police agencies that had acquired armored vehicles or firearms through the federal 1033 program, and for purchase and deployment data to 131 police agencies. See the Methodology section for agency selection criteria, and Appendix C for texts of records requests.

The PRA was enacted in 1968 and requires California government agencies to provide access to records, and includes exemptions for law enforcement: “Records of complaints, investigations, intelligence records, security procedures and other documents of law enforcement agencies are exempted from disclosure.” The law requires a response within 10 days, and grants agencies the ability to request a 14-day exemption.

Agencies respond to PRA requests in several possible ways: with the requested information, “No responsive records,” or a denial of the request. Agencies are not required to create new documents to answer a request, so when agencies do not document a deployment or acquisition, they only must produce the documentation that is available. For example, Del Norte CSO did not keep purchase or deployment records, and had experienced nearly complete staff turnover. The agency therefore planned to issue a “No responsive records” response. Clayton PD provided the fastest “fully responsive” response to the request for purchases and deployments data. Its response to all requests was “no responsive records.”

Our research found that while over 80% of agencies eventually responded to the requests, only 10% responded to militarized equipment purchase and deployment PRA requests within 10 days. Out of those 13 within-10-day responses on deployments, eight had no responsive records to provide. The requests for records of deployments of militarized equipment acquired through the 1033 program had slightly better rates: 21% of 151 agencies responded within 10 days. Out of those 31 agencies, 21 had no responsive records to provide concerning deployments. Our data raises serious questions about California agencies’ abilities to provide data to communities, including to elected city and county officials.

Some types of information are more readily available than others. Agencies were slightly more willing to disclose information about purchases of militarized equipment than how that equipment was used in the community. 20% of agencies did not provide a response to our request for deployment data, compared with 12% of agencies for purchase data.

Some responses to public records requests raise more questions. More than four months after receiving a PRA request for records of deployment of “less lethal” munitions and launchers, San Bernardino PD responded that they had no responsive records to this request. Yet, San Bernardino PD purchased more than \$25,000 worth of “gas and less lethal” munitions in October 2020 and over \$27,000 worth of “PepperBall” munitions between August and October 2020.⁶³ If San Bernardino PD never used such munitions during a nearly two-year period, why did the Department purchase more than \$52,000 worth of it?

“An imbalance in access to information is an imbalance of power.”

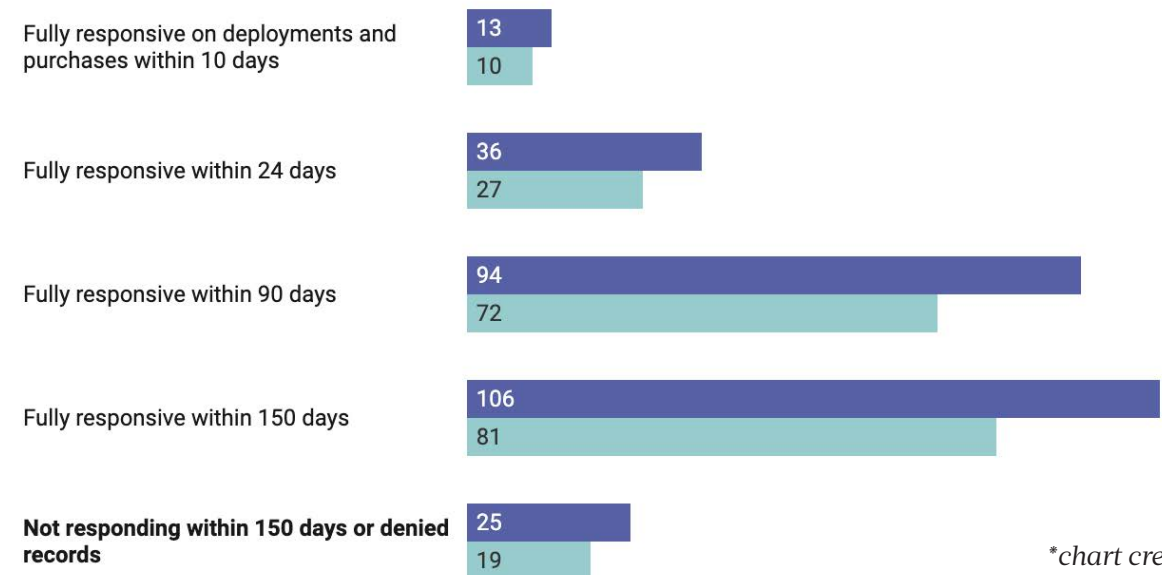
—**Electronic Frontier Foundation⁶¹**

DATA

Agency responsiveness to public record requests

(for purchase and deployment records)

■ Count ■ Percentage of total agencies (out of 131 agencies)



*chart created with Datawrapper

Our research reinforces the need for AB481 and SB978: there are many basic questions about police militarization that are unlikely to be answered through PRA requests. How much public funds are spent on militarized equipment? What use policies are in place that authorize or prohibit specific types of military equipment? What is the impact of militarized equipment on communities? State legislation now requires law enforcement agencies to publicly respond to these questions.

Challenges to communities seeking answers

Based on our experience with more than 300 PRA requests, community members (and elected officials) who inquire about militarized equipment may experience the following issues:

1. **Does the submitted request get correctly directed to the relevant personnel?**
2. **Does the agency require guidance or negotiation?**
3. **Will the response be timely?**
4. **Will the response be useful?**
5. **Does the submitted request get correctly directed to the relevant personnel?**

Does the submitted request get correctly directed to the relevant personnel?

Several agencies struggled with directing our PRA request to relevant personnel or in empowering that personnel with the authority to fulfill the request. For instance, San Francisco PD responded to phone calls regarding the PRA request by transferring the caller back and forth multiple times between Media Relations and Legal, and only acknowledged receipt of the request when an email describing the interaction was sent to several city officials and the police chief. After five months, SFPD has yet to provide either the requested documents or further acknowledgements.⁶⁴

Some agencies complained of lack of staff. Tehama CSO explained that they have no records staff, so dispatch responds to PRA requests between calls. Their preferred manner of communication is by fax. Several agencies reported inability to find answers without support from officers in different units.

Does the agency claim that records are exempt from release?

Eleven agencies denied the request for deployment records, many based on the exemption in the Public Records Act for law enforcement investigatory records, including Gardena PD; Riverside and Marin CSOs. Several agencies denied the request based on a claim that the burden to search for and review those records is too great to fulfill. While we were sometimes able to coax agencies to fulfill a modified request, this persistence may be more than even a dedicated community member can take on.

Will the response be timely?

A few agencies, including Montebello PD and UC Berkeley PD, took more than 3 months to report they had no responsive records for equipment purchases. 24 agencies had not responded within five months, including large departments in San Francisco, Sacramento, Oakland, Palo Alto, Antioch, and Long Beach, and sheriff's offices in Alameda, Fresno, and Los Angeles Counties.

Will the response be useful?

Agencies are not required to create new documents to respond to a PRA request, and may choose to redact information they provide. This can limit transparency around the acquisition and use of militarized equipment. For example, Livermore PD provided redacted receipts only.

Some agencies also struggled with accessing information provided by their own department. A large number of law enforcement agencies replied to our PRA request for use policies saying they didn't have a use policy, but out of these agencies, many in fact had policies available on their agency website.

All responding agencies reported no records of complaints related to use of MRAPs or rifles acquired through the 1033 program. This may be a result of people not knowing how to file, fear of making a formal complaint, or complaints that focus on police behaviors, which do not log the military equipment involved.

How is there such a lack of transparency?

The very lack of transparency makes it hard to evaluate why agencies do not adequately respond to PRA requests, so we can only offer conjecture. Perhaps agencies are not expected to keep organized records; we did see some anecdotal correlation between agencies with organized record-keeping and useful responsiveness to our requests. We also noticed that several agencies shared that they don't track militarized equipment separately from any other equipment. It may be that deeply ingrained agency mindsets that view these weapons as "compliance tools" lead to a level of casualness in documentation. Finally, some agencies don't dedicate sufficient staff to respond to PRA requests.

Recommendations for transparency

PRA requests are limited in shining a light on police practices, as recently highlighted by our experience with over 300 PRA requests. Our experience was not unique. Numerous media organizations investigating police misconduct formed The California Reporting Project and had to sue police agencies to obtain misconduct records authorized for release under SB 1421. Their investigations revealed agencies' tendency toward secrecy, resisting disclosure, and in some cases destroying records.⁶⁵

If elected officials hold agencies accountable to implementing it, AB 481 will set new standards for transparency around agencies' use of militarized equipment. A best practice for agencies that use militarized equipment is to regularly publish thorough, detailed information about deployment in the community. The Oakland Police Department, for example, publishes a monthly list of deployments of its BearCat armored vehicle.⁶⁶ This was made possible through a community that called on city officials to be accountable for greater transparency, and officials that responded to these calls.

Inyo PD

“Our records destruction policy specifies we only keep financial records for two years.”

Calaveras Co. Sheriff's office

“We do not keep purchase records in a format that is searchable by specific terms”

Inglewood PD

“Our staff doesn't document deployments”

Bell PD

“We don't keep records of deployment of less lethal immunized”

COMPANY INTERESTS IN POLICE MILITARIZATION

The data we collected sheds light on connections between local police departments and the companies that provide them with militarized weapons and equipment. These include Lexipol, the company that provides police departments with policy manuals; manufacturers of the BearCat armored vehicle, firearms and less-lethal weapons; and regional distributors.

The next few pages include short profiles of some companies that showed up most frequently in the data. Most of the companies identified in our data are not among the world's largest weapon manufacturers, many of which have been expanding into the "homeland security" industry.

While these larger military companies offer weapons and technologies that are less useful for or beyond the financial reach of local law enforcement, other smaller companies have entered the niche market of police militarization.

For fuller profiles of these and other companies,

Visit
investigate.info



PHOTO: Gio Barlett/Unsplash

Lexipol LLC

Lexipol LLC is a privately-owned company headquartered in Frisco, Texas, was founded in 2003 in Southern California by former police officers turned lawyers Gordon Graham and Bruce Praet. Lexipol is owned by Chicago-based private equity firm GTCR LLC, which acquired it in 2021 from The Riverside Company.⁶⁷

Lexipol specializes in developing “legally sound defensible policies” for police departments, as well as fire and other public safety agencies.⁶⁸ The company offers more than 170 state-specific policing policies, including on use of force, “biased-based policing,” and “public recording of law enforcement activity.”⁶⁹

Lexipol’s policies prioritize police discretion over public safety by deliberately using vague language that allows police officers maximum flexibility.⁷⁰ It never claims that its policies improve public safety. Instead, they aim to reduce legal liability and financial risk for police departments.⁷¹ Company co-founder Praet has trained officers to clean up blood of injured civilians so that they appear less injured in photos that might later be used at trial.⁷²

Lexipol’s off-the-shelf policies have become widely used, making it “the single most influential provider of police policy nationwide.”⁷³ Its clients include some 8,000 agencies in at least 35 states.⁷⁴ In California, the company claimed to serve 95% of police agencies in 2012, and a 2021 survey found they are used by at least 379 California law enforcement agencies.⁷⁵

Lexipol does not see police violence as a problem and has consistently promoted a militarized model of policing.⁷⁶ Its use-of-force policies have been connected⁷⁷ to several high-profile police shootings of Black men in the U.S.⁷⁸ Lexipol publicly advocates against legislation aimed at limiting police discretion and has worked behind the scenes to water down such bills.⁷⁹

Lexipol policies have also exacerbated⁸⁰ the jailing and deportation of immigrants by U.S. immigration authorities, urging local law enforcement agencies to illegally enforce federal immigration law.⁸¹

Lenco Industries Inc: Makers of the BearCat armored vehicle

Lenco Industries (Lenco Armored Vehicles) is a privately-owned armored vehicle manufacturer based in Pittsfield, Massachusetts. Founded by Leonard and Rosemary Wright in 1981, the company markets its vehicles to military, law and immigration enforcement, border control, and emergency and rescue response agencies.⁸²

Lenco’s first product was the BEAR, an armored vehicle designed for and primarily used by military forces.⁸³ After seeing demand for similar vehicles by police departments, the company released the Lenco BearCat⁸⁴ (Ballistic Engineered Armored Response Counter Attack Truck) in 2001, which has been used by military and law enforcement in 40 countries. Built on a Ford F-550 truck base, the BearCat can be customized with features



such as tear gas deployment nozzles and battering ram attachments.⁸⁵

Our research shows that at least 12 California police departments purchased Lenco vehicles from 2015 to 2021. Lenco’s total revenue from the police departments that responded to our public records request reaches \$3.6 million, making it the top earning company in our dataset. Five additional police departments purchased BearCats from the Department of Defense. Media reports reveal 23 additional police departments across California that use BearCats.⁸⁶ Lenco produces eight BearCat models, and some police departments have several vehicle types; for example, the Los Angeles Sheriff’s Department (LASD) Special Enforcement Bureau has 10 BearCats of various models.⁸⁷

Armored vehicles such as the BearCat represent the increasing militarization of the police—after the murder of George Floyd by Minneapolis police, at least 29 armored vehicles were deployed at protests across the nation.⁸⁸ In 2014, police deployed BearCat vehicles at protests in Ferguson, Missouri, leading to calls for police demilitarization. Local communities in California such as Culver City and Oakland continue to challenge the acquisition and use of Lenco vehicles.⁸⁹

Genasys Inc / LRAD

Genasys Inc, formerly the Long Range Acoustic Device (LRAD) Corporation, is a San Diego-based publicly-traded company that develops acoustic hailing devices and public safety warning systems. The company reported having 148 employees and \$47 million in revenue during 2021.⁹⁰

The LRAD sonic weapon, a.k.a. “sound cannon,” was developed for military use and can broadcast high-pitched tones from a long distance.⁹¹ Genasys markets this system to law enforcement as an alternative to megaphones and other public address systems.⁹² In addition to amplifying speech, police can utilize the LRADs alarm mode, which emits a high-frequency deterrent tone that can be targeted at a specific location.⁹³

While it is non-lethal, exposure to the LRAD’s alarm mode can cause painful sound injury symptoms,⁹⁴ symptoms of post-traumatic stress disorder⁹⁵, and even permanent hearing loss.⁹⁶ Multiple cities have faced lawsuits stemming from injuries caused by police officers’ use of LRADs. In 2017, a Manhattan District Judge ruled that the use of an LRAD could be considered “excessive force.”⁹⁷

Genasys claims that its LRAD systems are used in more than 100 countries and 500 U.S. cities, as of 2022.⁹⁸ LRADs are also used by the U.S. military⁹⁹, Immigration and Customs Enforcement (ICE),¹⁰⁰ and Customs and Border Protection (CBP).¹⁰¹ Five of the California law enforcement agencies that responded to our public records requests have spent an aggregate \$78,264 on purchasing LRADs and related accessories. The most commonly purchased model is the LRAD 100X, which is lightweight and portable.¹⁰²

LRAD systems are routinely deployed by U.S. police as “crowd control” weapons against protestors. They were first documented used against protestors in the U.S. during the 2009 G20 protests in Pittsburgh,¹⁰³ and were later deployed in 2011 against Occupy movement

After the murder of George Floyd by Minneapolis police, at least 29 armored vehicles were deployed at protests across the nation.

Local communities continue to challenge the acquisition and use of Lenco vehicles.



protesters in Oakland¹⁰⁴ and New York¹⁰⁵; at Standing Rock¹⁰⁶ in 2016; in Washington, D.C. during the 2017 Women’s March¹⁰⁷; and at countless Black Lives Matter protests.¹⁰⁸

Colt’s Manufacturing Company / Česká Zbrojovka

Colt’s Manufacturing Company, LLC is a privately-held firearms manufacturer based in Hartford, Connecticut. Founded in 1855 to supply guns to the U.S. Army, it is one of the world’s oldest and most recognizable gun makers for the military, law enforcement, and commercial markets. In 2021, Colt was acquired by Česká Zbrojovka Group SE (CZG), a Czech firearms manufacturer that is traded on the Prague Stock Exchange.¹⁰⁹ The combined company is expected to generate more than \$500 million in annual revenue.¹¹⁰

Colt manufactures and sells a wide range of small firearms, including a line of fully-automatic M16 and M4 military assault rifles and the semi-automatic AR-15 version. Colt’s larger clients are militaries around the world, including the U.S. military, as well as U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). Colt markets the same military-style rifles for law enforcement use, including its 9mm submachine gun, which Colt says is “exceptionally well suited for military, paramilitary, and Law Enforcement organizations.”¹¹¹

Colt leads the list of firearm manufacturers, alongside Glock, Remington, Sig Sauer, and Smith & Wesson. Of the California law enforcement agencies that responded to our public records requests, 37 have purchased Colt firearms or training courses between 2015-2021, for a combined \$2.16 million. The most popular Colt weapons among California law enforcement are military-style fully-automatic assault rifles of the M4 series. They were purchased mainly through distributors such as Adamson Police Products and LC Action Police Supply.

Colt weapons have been connected to increased police militarization at protests and to related police killings. For example, in California, the Vallejo police officer who killed unarmed Sean Monterrosa at a 2020 Black Lives Matter protest used a Colt M4 Commando.¹¹² In New York City, the NYPD Strategic Response Group, a heavily militarized rapid-response unit also known as NYPD’s “goon squad,” arms its several hundred officers with M4 rifles and has deployed them at racial justice protests.¹¹³

United Tactical Systems / PepperBall Technologies

United Tactical Systems LLC (UTS) is a privately-owned company headquartered in Lake Forest, Illinois, most known for making the PepperBall brand of “less lethal” weapons. PepperBalls are small plastic spheres that can be shot from “military-style”¹¹⁴ launchers and that burst upon impact, releasing a pepper-derived irritant powder. Owned by Ron Johnson, UTS employs 120 people and generates an estimated \$11.84 million in annual sales.¹¹⁵



Česká zbrojovka factory in Uherský Brod.
Photo: Adam Zivner/Wikicommons



Assault rifle Sa vz. 58.
Photo: Jan Hrdonka/Wikicommons



PepperBall weapons are used by militaries, law enforcement, prisons, private security companies, and the general public. Its military clients include the U.S. Army and Navy,¹¹⁶ as well as the Israeli military, which has used PepperBalls against Palestinian civilians in the occupied West Bank.¹¹⁷ It has also been used by police officers against protestors in Australia, Hong Kong, India, Malaysia, and Turkey.¹¹⁸ U.S. Customs and Border Protection (CBP) bought PepperBall weapons worth \$5.9 million since 2006, almost half of it during 2019-2021.¹¹⁹

Police departments in the United States routinely use PepperBall against crowds, protestors, and bystanders. Notable deployments include use against Occupy protestors at UC Davis and in Denver in 2011 and 2012, respectively;¹²⁰ at anti-Trump protestors in Phoenix, Arizona¹²¹ in 2017; and at protestors, legal observers, and journalists during Black Lives Matter protests in Dallas¹²² Denver,¹²³ Omaha,¹²⁴ and other cities across the U.S. in 2020.

In California, at least 24 law enforcement agencies that responded to our public records requests spent a combined \$254,057 on PepperBall projectiles, launchers, and other equipment, either directly from UTS or from distributors such as Adamson Police Products and LC Action Supply.

While UTS markets its weapons as safe and “non-lethal,” PepperBalls have caused at least two documented deaths: in a 2004 case in Boston¹²⁵ and a 2016 case in New Mexico.¹²⁶ In other cases, it has caused permanent eye damage, as in a 2004 incident at UC Davis,¹²⁷ and severe skin injuries.¹²⁸ Multiple cities have faced lawsuits stemming from injuries caused by police officers’ use of PepperBalls.¹²⁹

Defense Technology / Safariland

Defense Technology is a privately-owned manufacturer of less-lethal weapons based in Casper, Wyoming. It is mostly known as one of largest manufacturers of chemical weapons (tear gas), which it markets to militaries, law enforcement, and prisons.¹³⁰ Its tear gas grenades, which were developed¹³¹ –and later banned¹³²–for military use, have been deployed by the Israeli military in the occupied Palestinian territory,¹³³ by Egyptian and Bahraini authorities during the 2011 “Arab awakening,”¹³⁴ by the Mexican Police in Oaxaca,¹³⁵ as well as in Tunisia, Turkey, Venezuela, and Yemen.¹³⁶

Police departments across the U.S. have also used Defense Technology’s weapons against protestors. This includes, for example, Occupy Oakland in 2011,¹³⁷ Ferguson, Missouri in 2014,¹³⁸ and Standing Rock in 2016. At least 100 police departments used tear gas during the 2020 Black Lives Matter protests following George Floyd’s murder, many of them made by made by Defense Technology.¹³⁹ In 2018, Customs and Border Protection (CBP) agents were documented firing Defense Technology weapons at migrants trying to cross the U.S.-Mexico border.¹⁴⁰

This border incident led to a campaign against Safariland, the parent company of Defense Technology at the time, and Warren Kandera, Safariland’s CEO and majority owner. In 2019, Kandera resigned from his role on the board of the Whitney Museum of Art in New York City, following months of protests and an artist boycott.¹⁴¹ A year later, Safariland announced it would sell Defense Technology within a few months, but



PepperBall shots fired at wall during 2020 protests. Omaha, Nebraska.
Photo: Shelby L. Bell/Wikicommons

THE SAFARILAND GROUP



DEFENSE TECHNOLOGY®

the two companies are still inextricably linked.¹⁴²

In California, at least 43 of the law enforcement agencies that responded to our public records requests have purchased either Safariland or Defense Technology equipment between 2015-2021.¹⁴³ The vast majority of purchases recorded in our dataset were of Defense Technology less-lethal weapons, for a total of some \$644,000, including 40mm launchers, munitions, and grenades. Most of the purchases were made through distributors such as Adamson Police Products, AARDVARK Tactical, and LC Action Police Supply, while a minority were made through Safariland itself.

Combined Systems Inc / Combined Tactical Systems

Combined Systems Inc (CSI), a privately held company based in Jamestown, PA, manufactures less-lethal weapons for military and police use under the brand name Combined Tactical Systems (CTS). Founded by Michael Brunn and Jacob Kravel in 1981, CSI had 250 employees and generated \$150 million in revenue in 2018.¹⁴⁴ Since 2005, it is owned by private equity firm Point Lookout Capital Partners, which later also acquired the producer of launchers, Penn Arms, and added it to CSI.

CSI products include tear gas and smoke grenades, smoke and foam projectiles, flares, gun launchers, and rubber batons. Its tear gas is routinely used by the Israeli military and police against Palestinian civilians in the occupied Palestinian territory.¹⁴⁵ The Egyptian police used CSI tear gas against pro-democracy protesters during the 2011 uprising.¹⁴⁶ CSI tear gas has also been reportedly used in at least 14 other countries.

In the United States, police widely use CSI products for crowd control during protests. At least 100 police departments used tear gas during the 2020 Black Lives Matter protests following George Floyd's murder, many of them made by CSI.¹⁴⁷ They were also used in 2014 against protestors in Ferguson, Missouri.¹⁴⁸ Though the products are categorized as "less-lethal," a 2016 study linked such weapons to dozens of deaths.¹⁴⁹

The California police departments that responded to our records requests spent at least \$607,000 on CSI products during 2015-2021. These products include tear gas canisters, rubber and foam batons, glass breaker projectiles, flashbangs, sting balls, other grenades, bean bags, sponge rounds, and launchers for these weapons, with grenades (including flashbangs and sting balls) being the product most frequently purchased. According to our data, LC Police Action supplied more than 370 of the 408 orders for CSI products.

AARDVARK Tactical, Inc

AARDVARK Tactical is a privately-owned distributor of tactical weapons and equipment headquartered in La Verne, California. It was founded in 1987 by Jon Becker, who owns it with his spouse Melissa Becker. As of 2022, the company reportedly employed 23 people and generated an estimated \$6.2 million in annual sales.¹⁵⁰



AARDVARK's primary client is the U.S. military, which buys crowd control weapons, TASERS,¹⁵¹ chemical munitions, ballistic body armor and other equipment from the company. In 2014 Aardvark supplied crowd control and detention equipment worth \$1 million to the Guantanamo Bay detention camp.¹⁵² AARDVARK is also one of the main suppliers of TASERS to U.S. Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE).

In 2015, AARDVARK pivoted to cater more to law enforcement.¹⁵³ According to company CEO Jon Becker, the company makes little distinction between police officers "in Los Angeles serving a warrant" and military operators in "Afghanistan hunting the Taliban."¹⁵⁴ It added to its product line policing-specific products, hired more law enforcement-adjacent staff, and started aggressively marketing to police departments.¹⁵⁵ It started hosting its own annual SWAT competition for law enforcement, with handgun trainings on speed shooting, shooting on the move, and sniper shooting; demos on impact munitions; military-style obstacle courses; and other combat lessons.¹⁵⁶

AARDVARK primarily equips police departments with less-lethal weapons, such as the Genasys LRAD sound cannon and Defense Technology munitions. AARDVARK sells these to law enforcement agencies in at least 12 states.¹⁵⁷ 17 law enforcement agencies that responded to our records request have purchased from AARDVARK. Popular purchases included, for example, military-style smoke grenades, 40mm projectiles and tactical projectile launchers, rubber-coated bullets, and body armor.

AARDVARK also sells surveillance tools, including drones. In 2021, it became the exclusive North American distributor of the LOKI Mk2 Tactical drone made by Sky-Hero.¹⁵⁸ These drones are designed to operate¹⁵⁹ in confined, indoor spaces, and can provide real-time video and audio feedback in complete darkness. They are intended primarily for "military use."¹⁶⁰

LC Action Police Supply Ltd

LC Action Police Supply is a privately-owned retailer that specializes in selling weapons and tactical equipment to police, headquartered in San Jose, California. It was founded in 1988 and is owned by Darsi and Kip Miller. LC Action sells primarily to police departments but also to the general public, both online and at its San Jose retail showroom.

The company carries semi automatic rifles, pistols, shotguns, and handguns produced by major firearms manufacturers, such as Colt, Glock, Ruger, and Smith & Wesson. It also sells a variety of less-lethal weapons and riot gear, including by CSI, Defense Technology/Safariland, and United Tactical Systems/Pepperball.

LC Action primarily contracts with state and local law enforcement agencies in California. Within the law enforcement agencies that responded to our public records request, 45 have purchased weapons and equipment from LC Action, for a total of \$2.4 million. This makes LC Action the second highest earning retail company in our dataset, after Lenco. LC Action has



Photo: yelp image

also sold to police and prison agencies in Georgia¹⁶¹ and Nevada¹⁶², as well as to the Army¹⁶³ and Bureau of Prisons.¹⁶⁴

In addition to regular sales to law enforcement agencies, LC Action incentivizes police officers and departments to continuously upgrade their weapons. It allows police departments to trade in aging guns for newer models, and runs an annual “Glock day” sale, with special prices and food served at its showroom.¹⁶⁵

Adamson Police Products

Adamson Police Products is a privately-owned distributor of law enforcement equipment headquartered in Livermore, California. It was founded as Professional Police Supply Inc in 1980 by owner Jim Cunningham and has three brick-and-mortar retail locations: in Livermore and Los Alamitos, California and Frederick, Colorado. The company generates an estimated \$1.13 million in annual revenue.¹⁶⁶

Adamson’s catalog for police departments includes firearms, including military-grade rifles, ammunition, less-lethal weapons, “combat proven” robots, and thermal imaging tools. Adamson emphasizes the military use of some of its products. For example, on its website, Adamson markets the Sig Sauer M18 handgun as “chosen by the U.S. Marine Corps and the U.S. Military, now available to you for the first time.”¹⁶⁷

Of the 83 California law enforcement agencies in our purchases database, 42 have purchased weapons and equipment from Adamson, for a total amount of \$1.4 million. This makes Adamson the third highest earning company in our dataset, after Lenco and LC Action. Adamson has also provided equipment and uniforms to police and prison agencies in Colorado,¹⁶⁸ Montana,¹⁶⁹ Nevada,¹⁷⁰ and New Mexico.¹⁷¹

Sales to police departments have commonly included Colt, Daniel Defense, Sig Sauer, and Smith & Wesson firearms, as well as a wide range of less-lethal weapons, including by CSI, Defense Technology/Safariland, and United Tactical Systems/PepperBall.



CONCLUSION

Opportunities to press for demilitarization

Militarized policing in the United States has been constructed over a long period of time, and has become embedded in the thinking, budgets, institutional prerogatives of both law enforcement officers and many civilians. It is built on narratives of fear and racism, as well as history and culture that embraces the practices of war.

Deconstructing this militarization and creating community safety based on our needs will require persistence from many individuals, organizations, and communities.

New legislation in California offers tools for advocating for transparency and for taking the weapons of war out of our cities and towns. We hope this report is useful in that endeavor.

RECOMMENDATIONS

To California Attorney General Rob Bonta

We urge AG Bonta to publish guidance for cities and counties to implement AB 481 that states that use policies must clearly outline authorized and prohibited uses (*not just users*) for each type of military equipment.

To City councils / County supervisors

We urge elected officials to heed widespread community calls for demilitarization and to reinvest resources used for militarized policing into community needs for mental health care, housing, drug treatment, health, employment, and reparations.

We recommend that city council members and county supervisors ask hard questions about proposed use policies for military equipment submitted to them. **The questions in Appendix A of this report may serve as a guide.**

To community members and organizations

We encourage community members to:

- be vigilant regarding military equipment policies proposed in your communities
- support the voices of people impacted by militarization
- use advocacy tools to contest police militarization and use AB 481
- show up at public hearings considering proposed policies

To journalists

We urge journalists to pay critical attention to the information and policies for police uses of military equipment as a result of AB 481 and the information we have gathered for this report.

We urge journalists covering these issues to prioritize the perspectives and experiences of people impacted by militarization, who usually have fewer resources than law enforcement agencies for their narratives to be heard.

To scholars and researchers

We urge scholars and researchers to use and build on the data and records we have collected for this report. Because much of this information has been in the shadows for so long, we believe datasets we have assembled can contribute to significant further inquiry and analysis.

METHODOLOGY

This report draws on a range of public sources of information, including testimony, data, records, reports, and correspondence by military and law enforcement agencies, nongovernmental organizations, academic researchers, media, and people who have been directly impacted by military equipment used by police.

The Defense Logistics Agency publishes quarterly a database of equipment transferred to law enforcement agencies under the 1033 program. We drew on this database to identify California law enforcement agencies that acquired controlled equipment (armored vehicles, firearms and night vision equipment) through the program.

American Friends Service Committee (AFSC) submitted more than 300 Public Records Act requests to law enforcement agencies, using an online platform for submitting public records requests, Muckrock.com. We submitted requests in July and August 2021 to all 151 California law enforcement agencies that acquired armored vehicles or firearms through the 1033 program. We asked for information on their rationale for acquisition, use policies, records of usage, and complaints filed (see Appendix C).

AFSC made requests to 131 California law enforcement agencies in October and November, 2021 for records of purchases and deployments of armored vehicles, assault rifles, “less lethal” launchers and munitions (including teargas), and Long Range Acoustic Devices (LRADs). (See Appendix C) We directed the requests to: all 58 County Sheriff Offices in California; the 31 largest police departments; departments in cities of 25,000 or more with populations that are more than 15% Black or 75% Latinx; Alameda County police departments; and agencies that used military equipment against protests in 2020, as documented by Amnesty International. For agencies that did not respond in a timely manner, we followed up with email inquiries and, in many cases, phone calls. We also submitted requests for records to California Office of Emergency Services, which administers law enforcement equipment grants through the federal Urban Areas Security Initiative (UASI) program, as well as to regional UASI authorities.

In response to these requests, we received nearly 2,000 documents from 172 agencies, including more than 750 documents with purchase and deployment records. A research team entered data from 90% of the purchase and deployment records into a database, and nearly two thirds of the data was manually verified by other members of the team. We also searched for and reviewed use policies for 154 law enforcement agencies.



PHOTO: Rodnae productions/Pexels

APPENDIX A

Questions to ask law enforcement agencies about equipment and use policies

- Review the costs and quantities of equipment in the proposed use policy. Is the city or county getting expensive or large amounts of military equipment at the expense of unmet needs in the community (mental health services, school closures, housing)?
- Does the policy define authorized uses of the equipment—that is, in what situations it can be legally use—or only users who can use the equipment? AB 481 requires the policy to define authorized uses but some police agencies only propose what officers are authorized to use it.
- Does law enforcement propose to authorize use during First Amendment assemblies? What is the impact of deploying military equipment on the right to peaceful protest?
- Do any of the use policies name situations for authorized use but with language like “including but not limited to” these situations? If so, it has the effect of authorizing any use at all, since the situations are only examples.
- AB 48 (different from AB 481) limits police use of teargas and rubber bullets during protests.¹⁷² Does the use policy fully incorporate those restrictions?
- Will pre-planned uses of equipment such as SWAT deployments be authorized when children or other vulnerable populations are present?
- For pre-planned uses of equipment, what alternatives will be considered? For example, for an arrest warrant, has arrest outside the home—where children and other uninvolved persons might be present—been considered?
- For pre-planned uses of equipment, what information will be gathered beforehand? Does that include not only information about risks to officers, but risks to community members, including trauma and property damage, from deployment of the equipment?
- Does the use policy govern when weapons or equipment are deployed, or only when force is used? AB 481 requires policy for when a weapon is used, not only for uses of force.
- If the use policy refers to another policy or general order, such as use of force or firearms policy, does the referenced policy describe authorized uses? Is the referenced policy on an accessible web page linked to the military equipment use policy?
- How will authorized uses distinguish between subjects who are unarmed, armed with a firearm, or with another object?

- Given how equipment deployment might be interpreted as aggressive, how will communication with mentally ill people or non-English speakers be conducted?
- Do the costs for the equipment include the costs of initial and ongoing training officers in its use? If not, how much does that training cost in personnel costs?
- Many departments record uses of force, but not deployment of military equipment. Since AB 481 requires an annual report on use of military equipment, how will the department ensure that such use is documented?

Please refer to our Advocacy Toolkit for additional resources

VISIT

afsc.org/resource/ab481-advocacy-toolkit

APPENDIX B

Glossary

CSO - County Sheriff's Office

DOD - Department of Defense

LEA - Law Enforcement Agency

MRAP - Mine Resistant Ambush Protected (vehicle)

PD - Police Department

PRA - (California) Public Records Act

UASI - Urban Areas Security Initiative

APPENDIX C

Public records requests

1. The following request for 1033 records was submitted to 151 California agencies

Pursuant to the California Public Records Act, I hereby request the following records:

Records of your agency related to the deployment and use of controlled equipment obtained through the 1033 Program of the Department of Defense, as set forth below.

According to records posted by the Defense Logistics Agency (<https://www.dla.mil/DispositionServices/Offers/Reutilization/LawEnforcement/PublicInformation/>), your agency acquired controlled equipment through the 1033 program, as reflected in the attached spreadsheet, including firearms.

A. Requests for Records

Records Request No. 1: All Documents constituting, reflecting, relating to or that contain current use policies if any for each type of 1033-program controlled equipment, including situations or circumstances in which use is authorized or prohibited.

Records Request No. 2: Records that list the dates, locations, suspected offense(s) or rationale for operation, controlled equipment deployed, arrests, and uses of force for each deployment of 1033-program controlled equipment since July 1st, 2019, specifically: firearms, armored vehicles, and night vision equipment.

Records Request No. 3: All records of complaints regarding the use and impact of 1033-program controlled equipment, including correspondence, visual or audio-visual materials, and responses to complaints.

Records Request No. 4: Documents that constitute, reflect, relate to or that contain rationales or criteria for acquisition of 1033-program controlled equipment, prior to its acquisition.

B. Response Time

Please provide requested documents as they become available.

Please respond to this request in ten (10) days, either by providing the requested information or providing a written response setting forth the specific legal authority on which you rely in failing to disclose each requested record, or by specifying a date in the near future to respond to the request. See Cal. Gov't Code § 6255. Pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

To assist with the prompt release of responsive material, we ask that you make records available to us as you locate them, rather than waiting until all responsive records have been collected and copied.

The American Friends Service Committee seeks this information as the requestor to promote and provide public access to these documents and increase civic engagement. Because this request is made on behalf of a nonprofit public interest organization, with the intent to make this material easily accessible to the public, we request that you waive any fees. In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible.

2. The following request for purchase and deployment records was submitted to 131 California agencies:

Pursuant to the California Public Records Act, I hereby request the following records:

A. Purchase records, invoices, procurement documents and other documents sufficient to show any and all disbursement of public funds for the acquisition by your agency since July 1, 2015 of any of the following:

- Firearms of .50 caliber or greater
- Patrol rifles (as commonly denominated for law enforcement use) or assault rifles (as defined in Sections 30510 and 30515 of the California Penal Code)
- Wheeled vehicles that are built or modified to provide ballistic protection to their occupants, such as Bearcats or armored personnel carriers.

- Projectile launch platforms, such as 40mm projectile launchers, “bean bag” or specialty impact munition (“SIM”) weapons, and “riot guns” used to disperse chemical agents

- Long-Range Acoustic Device (LRAD)

B. Purchase records, invoices, procurement documents and other documents sufficient to show any and all disbursement of public funds for the acquisition by your agency since July 1, 2018 of explosives and pyrotechnics, such as “flash bang” grenades and explosive breaching tools, and chemical weapons such as “teargas” and “pepper balls”.

C. Records of deployment by your agency since January 1, 2020 of projectile launch platforms, such as 40mm projectile launchers, “bean bag” or specialty impact munition (“SIM”) weapons, and “riot guns” used to disperse chemical agents; explosives and pyrotechnics, such as “flashbang” grenades and explosive breaching tools; and chemical weapons such as “teargas” and “pepper balls”.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

If you would like to discuss this request, please feel free to reach out to me, John Lindsay-Poland, American Friends Service Committee, at 510-282-8983.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 calendar days, as the statute requires.

CREDITS

This report was produced by the American Friends Service Committee, California Healing Justice Program.

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For questions regarding the contents of this report, please contact CAHealingJustice@afsc.org or 510-282-8983.

This report is also available online at afsc.org/california-militarized-police

ENDNOTES

¹ Sara Sulaiman, “Officers Who Killed Margarito López Didn’t Heed Standby Warning for “Less Lethal” Fire,” StreetsBlog LA, January 26, 2022, at: <https://la.streetsblog.org/2022/01/26/officers-who-killed-margarito-lopez-didnt-heed-standby-warning-for-less-lethal-fire/> and Robert Garrova, “LAPD Chief Moore Says Mental Health Team Should Have Been Sent To Scene Where Police Fatally Shot 22-Year-Old,” LAist, January 19, 2022, at: <https://laist.com/news/criminal-justice/profound-tactical-mistakes-experts-question-lapd-actions-shown-in-margarito-lopez-shooting-video>

² AB 481 uses the phrase “military equipment” to describe a range of equipment. In this report we use the terms “military” and “militarized” interchangeably, except with reference to AB 481, when we use the legislative language of “military equipment.”

³ Center for Policing Equity, “Justice Navigator,” at: <https://justicenavigator.org/#home-assessments>

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